

Speaking memo for WCO Informal Study Group meeting on the WTO Trade Facilitation negotiations

(re: WTO TFNG meeting of 1 -3 October 2007 and related meetings)

Note: The WCO Secretariat did not attend these WTO meetings. I prepared this memo for my own use at the WCO Informal Study Group meeting of 10 October, based on the input and information received from the counterparts in Geneva who attended the meetings. This memo is uploaded to the WCO Websites as requested by Members attending the WCO Informal Study Group meeting of 10 October. Members who would like to use the contents of this memo should contact their own information source in Geneva/the Capital (e.g., Geneva delegation office, Ministry of Foreign Affairs, Ministry of Commerce, etc.) for verification.

5 October 2007
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Overall

- WTO TFNG meeting of the week of 1 October attracted a fairly good number of the participants from the WTO members. Nevertheless, there was an atmosphere where people were waiting and watching carefully the developments of other negotiating agenda, especially, Agriculture and Non-Agriculture Market Access (NAMA).
- In other words, although some documents, mostly revised version of the previous documents, were tabled for negotiations and certain Q&As on them were held, the interest and attention of the WTO members in the meeting room appeared to be placed on the other issues.
- It was reported that the TFNG meeting was not so lively. It was originally designed for 3 full-day and one half day sessions, but it ended up with 3 half-day sessions.
- Under the Single Undertaking, Trade Facilitation negotiations should be considered along with these overall developments of Doha Round.
- There were several events in Geneva at the occasion of the TFNG, e.g., open technical workshop, bilateral and plurilateral consultations and gatherings, IGO meetings.
- All the Annex D organizations except the WCO attended the meeting. (IMF, OECD, UNCTAD, World Bank) They had substantive working sessions on TFNA guide and working methods. Absence of the WCO undermines the quality of the work and coordinated efforts to secure the synergies with the WCO instruments and work.

Paper contribution

- (brief introduction of the documents: TN/TF/W/43/Rev.12 (Compilation of 3rd generation proposals), W/106/Rev.7 (list of documents), W/114/Rev.1, W/115/Rev.1, W/123/Rev1, W/146, W/149)

- TN/TF/W/114/Rev.1 (Publication and accessibility: Japan, Mongolia and Switzerland) – revised version aiming to reflecting certain comments expressed by the other WTO members, e.g., adding “uniform interpretation and administration of regulations”, deleting a text on “a primary/initial enquiry point”
- TN/TF/115/Rev.1 (Prior-consultation and comments: Korea, Japan, Mongolia, Switzerland) – revised version aiming to reflecting certain comments expressed by the other WTO members, e.g., adding certain flexibility of not to give a prior-consultation opportunity, limiting the eligible entities to be consulted to entities in the territories
- W/123/Rev1 (Customs co-operation: India, South Africa and Sri Lanka) –revised version aiming to confirming that the 1st attempt should be done within a country before requesting the information to the other country, addressing concerns on criminal proceedings, confidentiality, apparently heavy burden to requested members. Since information exchange is taken bilaterally, commonly agreeable language is also allowed to use.
- W/146 (Quota-free transit: Turkey, Georgia) – quota-free transit regime non-discrimination of fees/charges in terms of origin or destination: Turkey gave slide presentation to the TFNG
- W/149 (Technical Assistance: EC) – TF TA/CB projects of the EC and EU Member States, including certain projects of infrastructure
- Negotiations also touched upon some of the previous proposals, i.e., W/131 (International Standards), W/138 (Single Window), W/144/Rev.1 Expedited Shipments

Informal gathering (the list may not be exhaustive)

- GEA: Express Shipments Services – Users from Cambodia, France; Aramex in Jordan; Guatemalan Customs

Points to note (in the negotiations)

- Re: Implementation, S&D: Who to determine if a country has satisfactory capacity to implement certain commitments? Who to judge that the necessary capacity is obtained after certain TA/CB? It should be the country itself to make such determination since it is the best entity to know the situation and to have the sovereignty. Some think it useful to have donors and/or other members in the monitoring process of implementation and TA/CB. Other think that monitoring process at the multilateral level is useful.
- Re: TA/CB: Should requests on TA/CB related to TF be put through TACB unit which is proposed to be set up in the WTO Secretariat? (Certain countries informally mentioned Single Window of TF related TA/CB process) or should it be continued in accordance with the current bilateral scheme?
- Re: Quota-free transit: Does this proposal suit to TFNG or GATS? Many quotas are based upon environmental regulations; it should be one of the legitimate policy objectives.

- Re: Use of international standards: Good concept but since not all the countries are the members to these organizations, flexibility is needed. WTO/TBT Agreement 2.4 has a similar concept which can be guidance.
- Re: Single Window: Concept is fine but quite ambitious in considering the situation of developing countries – should be best-endeavor provisions. Progressive implementation is allowed to all or only developing countries. Some said that the commitments were not specific enough.
- Re: Expedited shipments: Any accountability to establish “special customs procedures” applicable to only limited service providers? Release within one hour is too difficult. No distinction in terms of weight and value is difficult. Listed information in the proposal might not sufficient for the risk management.
- Re: Publication of information: Is publication via internet recommended practice or binding obligation?
- Re: Prior-consultation and comments: What are the cases of the exception of “urgent circumstances and other limited exceptions which are made public”? Who to decide them?
- Re: Customs co-operation: Is a authorization of requested members necessary for only the case for criminal proceedings or also the case for judicial proceedings? What’s the role of “centralized agency”? May need to cover other government agencies/administration? May need *de minimis*? Clause of superiority of bilateral agreement may be necessary. Issues of confidentiality is addressed but still not sufficient.

TFNG NA

- Guide: TN/TF/W/143
- 60 WTO members are requesting assistance for the conduct of self-assessment check and more WTO members preparing to place their requests
- The WTO Secretariat is planning to provide assistance in 11 WTO members in 2007. In the design, there will be two facilitators: one is an expert on WTO negotiations; the other is a TF expert, mainly Customs procedure expert. The WCO contributes to the 2nd cluster from/through the CBD.
- Mexico finished in September. Ernani, CBD took a facilitator role. He reported that it was successful (about 50 participants, among them 10 from private sector and 6 from Customs). In the WTO Secretariat’s plan in 2007, 11 WTO members are: Mexico (finished), Mauritius, Bangladesh, Tanzania, Pakistan, Burundi, Benin, Paraguay, Jordan, Honduras and Guatemala (WCO has been requested to contributed to underlined NA)
- To receive NA, need to establish a national TF committee/coordination framework composed of relevant agencies, ministries, bodies and private sector – this appears difficult in certain countries

- Contribution: Spain, Chinese Taipei, Switzerland and Sweden: more to come, in particular from the other EU members

Overall remarks on the October TFNG

- Apparently progressed not much
- It seems that WTO members are waiting for the developments/non-developments of Agriculture and NAMA negotiations.
- At this stage, no significant political conflicts on TF negotiations but no one wants to pay the price for TF (e.g., by compromise in Agriculture negotiations)
- Nevertheless, I heard that some said that (1) once Agriculture and NAMA negotiations start working well (i.e., almost the end of their negotiations while certain technical may remain), TFNG will have to extremely speed up to catch up them; (2) if they did not work well, WTO members still need to rescue the Doha Round and the WTO. They would think TFNG can be the one to indicate their capability to deliver tangibles to the World. Either way, TFNG would have to be accelerated the process.
- It is expected/hoped that the revised Chairmen's texts on Agriculture and NAMA negotiations would be circulated at the end of this month or the beginning of November.
- Some think that TFNG may need to produce a Chairman's text while the others think that the current practice of Member-driven drafting work based on the compilation should continue.
- Rumor of Ministerial level meeting (or a meeting open to ministers) in the late November or December.

Next TFNG

- Provisionally set: the week of 5 November – depending on the meeting room availability/developments of Agriculture and NAMA negotiations
- Several key WTO members wanted to have more informal gatherings before the next TFNG in order to speed up the drafting work
- 10 October: Confession-type consultation with the TFNG Chairman on the modalities of the TFNG proceedings
- Hoping that an appropriate officer of the WCO Secretariat can participate in TFNG meetings as well as WTO member's informal consultation and technical drafting work